



REMARKS:

Claims 1-29 remain in the application for consideration of the Examiner.

Reconsideration and withdrawal of the outstanding rejections is respectfully requested in light of the following remarks.

REJECTION UNDER 35 U.S.C. § 103:

Claims 1-29 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent 6,285,989 to Shoham ("Shoham") in view of a document titled "Active and Real-time Functionalities for Electronic Brokerage Design" by M. Beck, et al ("Beck").

This rejection is respectfully traversed.

Claim 1 requires that each event be "defined to expire within a "respective selected time period if unused," and events are stored "only until a first of the condition instance initiating the specified event or expiration of the specified event." Claims 5 and 9 include similar limitations. It has been previously pointed out that the proposed combination of Shoham and Beck fails to disclose or suggest all of the limitations of claim 1.

It is noted that the Office Action states that the examiner disagrees, stating that Beck discloses "using efficient algorithms to detect events and timing violations by maintaining a history of event instances and attributes in high memory to detect events at the earliest such that the log must include only relevant history for brevity. (pg. 4)."¹ Applicants assume that the examiner is referring to the following portion of Beck:

[The Event Monitor] stores a relevant history of event occurrences, and notifies the *Active Rule Manager* of instances of events of interest.

Efficient algorithms to detect events and timing violations are provided in [11]. The history of event instances and attributes must be maintained in high memory (e.g. cache or buffer) to detect events at the earliest. The log must include only relevant history for brevity.²

¹ Office Action, p. 8 (14 Oct 2005).

² Beck, p. 4.

The Office Action concludes that "BECK alludes to defining...when events are to expire if unused such that the event is removed from the log if it is not part of a relevant history for brevity."

Applicants respectfully disagree. First it is noted that the above-cited teaching of Beck relates to a log containing a history of event occurrences rather than storage of "messages...as events" as claimed in claim 1. Therefore, Beck fails to teach this limitation of claim 1. Second, even if the cited teaching of Beck did relate to stored events (although no such concession is made), Beck would still fail to teach that such history is "defined to expire within a...selected time period." Instead, Beck only teaches maintaining "relevant" history without any hint that such "relevance" is related to a selected time period. Thus, there is no proper basis for the allegation that Beck "alludes to defining...when events are to expire." Accordingly, the allegation is respectfully traversed. Finally, even if the cited teaching of Beck did relate to stored events (although no such concession is made), Beck would then teach away from storing events "only until a first of the condition instance initiating the specified event or expiration of the specified event" since Beck discloses storage of a *history* of event occurrences.

For the reasons set forth herein, the Applicant submits that claims 1-29 are not rendered obvious by the proposed combination of Shoham and Beck. Therefore, the Applicant respectfully requests that the rejection of claims 1-29 be reconsidered and that claims 1-29 be allowed.

In the event that the Examiner remains unpersuaded or would like to discuss alternative claim language, the Examiner is invited to contact the undersigned Agent for Applicant by telephone at (817) 447-9955.

The Legal Standard for Obviousness Rejections Under 35 U.S.C. § 103:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable

expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142. Moreover, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); M.P.E.P. § 2143.03.

With respect to alleged obviousness, there must be something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). In fact, the absence of a suggestion to combine is dispositive in an obviousness determination. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The mere fact that the prior art can be combined or modified does not make the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); M.P.E.P. § 2143.01. The consistent criterion for determining obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894 (Fed. Cir. 1988); M.P.E.P. § 2142.

A recent Federal Circuit case makes it clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35.

CONCLUSION:

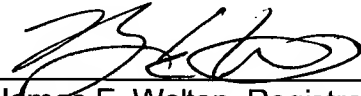
In view of the foregoing remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

The undersigned hereby authorizes the Director to charge any fees that may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is necessary for allowing this Response to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

11 JAN 2006
Date


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